



KANSAS

Workers Compensation Law & Regulations

SUPPLEMENT

July 1, 2005

**DEPARTMENT OF LABOR
WORKERS COMPENSATION
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Table of Contents

General Information	i
Tables: Schedule of Benefits; Mileage; and, Scheduled Injuries	ii
Preface	iii
Statutes:	
House Bill No. 2141	1
Substitute for House Bill No. 2142	5
House Bill No. 2299	11
Kansas Administrative Regulations	15
Index	I-1

General Information

This book contains a compilation of those sections and provisions of the *Kansas Statutes Annotated* and *Kansas Administrative Regulations* which pertain to workers compensation. The Kansas Department of Labor, Workers Compensation, publishes this information for the convenience of our customers. For the official text of Kansas statutes and regulations, please consult the *Kansas Statutes Annotated* and *Kansas Administrative Regulations* publications.

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 Topeka 785-296-7012
 Wichita 316-264-0220

Web side: http://www.dol.ks.gov/WC/HTML/wc_ALL.html

Workers Compensation Schedule of Benefits

Maximum Total Compensation Benefits (\$)

Fiscal Year	Maximum Weekly Compensation	Permanent Total Disability	Temporary or Partial Disability	Death	Funeral	Unauthorized Medical Expenses
7-1-99 to 6-30-00	\$383	125,000	100,000	200,000	5,000	\$500
7-1-00 to 6-30-01	\$401	125,000	100,000	250,000	5,000	\$500
7-1-01 to 6-30-02	\$417	125,000	100,000	250,000	5,000	\$500
7-1-02 to 6-30-03	\$432	125,000	100,000	250,000	5,000	\$500
7-1-03 to 6-30-04	\$440	125,000	100,000	250,000	5,000	\$500
7-1-04 to 6-30-05	\$449	125,000	100,000	250,000	5,000	\$500
7-1-05 to 6-30-06	\$467	125,000	100,000	250,000	5,000	\$500

Medical Mileage

Medical Mileage Effective 7-1-01 ----- .33	Medical Mileage Effective 7-1-04 ----- .37
Medical Mileage Effective 7-1-02 ----- .33	Medical Mileage Effective 7-1-05 ----- .40
Medical Mileage Effective 7-1-03 ----- .36	Medical Mileage Effective 7-1-06 ----- .??

Scheduled Injuries

<u>Schedule</u>	<u>Weeks</u>
Shoulder	225
Arm	210
Forearm	200
Hand	150
Leg	200
Lower Leg	190
Foot	125
Eye	120
Hearing, both ears	110
Hearing, one ear	30
Thumb	60
1st (index) finger	37
2nd (middle) finger	30
3rd (ring) finger	20
4th (little) finger	15
Great toe	30
Great toe, end joining	15
Each other toe	10
Each other toe, end joint only	5

Preface

The Kansas Legislature enacted some important amendments to the Workers Compensation Act in 2005. Because these changes were brief yet significant, we decided to publish this *Supplement* containing the text of those provisions, as a companion to our 2002 *Kansas Workers Compensation Law & Regulations* and 2003 *Supplement*.

The changes are presented essentially as they were made, contextually. The “uncleaned” versions of the changes as signed into law have been used, with ~~striketrough~~ text markings and *italic* print showing, respectively, the existing material deleted and the new material added by the bills. The purpose of this format is to clearly indicate how the statutory provisions have been changed. In the next edition of the complete *Law & Regulations* book, the “clean” versions of all changes since 2002 will be presented. We hope that readers and users of this Supplement will find this format helpful in tracking and understanding the changes made to the Workers Compensation Act this year. As always, anyone who has any questions or desires more information should feel free to contact the Department of Labor, Workers Compensation.

Paula S. Greathouse
Director of Workers Compensation
Topeka, Kansas

HOUSE BILL No. 2141

AN ACT concerning workers compensation; relating to burden of proof for admission of chemical test result into evidence; amending K.S.A. 44-501 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 44-501 is hereby amended to read as follows: 44501.

(a) If in any employment to which the workers compensation act applies, personal injury by accident arising out of and in the course of employment is caused to an employee, the employer shall be liable to pay compensation to the employee in accordance with the provisions of the workers compensation act. In proceedings under the workers compensation act, the burden of proof shall be on the claimant to establish the claimant's right to an award of compensation and to prove the various conditions on which the claimant's right depends. In determining whether the claimant has satisfied this burden of proof, the trier of fact shall consider the whole record.

(b) Except as provided in the workers compensation act, no employer, or other employee of such employer, shall be liable for any injury for which compensation is recoverable under the workers compensation act nor shall an employer be liable to any third party for any injury or death of an employee which was caused under circumstances creating a legal liability against a third party and for which workers compensation is payable by such employer.

(c) The employee shall not be entitled to recover for the aggravation of a preexisting condition, except to the extent that the work-related injury causes increased disability. Any award of compensation shall be reduced by the amount of functional impairment determined to be preexisting.

(d) (1) If the injury to the employee results from the employee's deliberate intention to cause such injury; or from the employee's willful failure to use a guard or protection against accident required pursuant to any statute and provided for the employee, or a reasonable and proper guard and protection voluntarily furnished the employee by the employer, any compensation in respect to that injury shall be disallowed.

(2) The employer shall not be liable under the workers compensation act where the injury, disability or death was contributed to by the employee's use or consumption of alcohol or any drugs, chemicals or any other compounds or substances, including but not limited to, any drugs or medications which

are available to the public without a prescription from a health care provider, prescription drugs or medications, any form or type of narcotic drugs, marijuana, stimulants, depressants or hallucinogens. In the case of drugs or medications which are available to the public without a prescription from a health care provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous 24 months. It shall be conclusively presumed that the employee was impaired due to alcohol or drugs if it is shown that at the time of the injury that the employee had an alcohol concentration of .04 or more, or a GCMS confirmatory test by quantitative analysis showing a concentration at or above the levels shown on the following chart for the drugs of abuse listed:

Confirmatory test cutoff levels (ng/ml)

Marijuana metabolite 1	15
Cocaine metabolite 2	150
Opiates:	
Morphine	2000
Codeine	2000
6-Acetylmorphine 4	10 ng/ml
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine 3	500

1 Delta-9-tetrahydrocannabinol-9-carboxylic acid.

2 Benzoylcegonine.

3 Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.

4 Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

An employee's refusal to submit to a chemical test shall not be admissible evidence to prove impairment unless there was probable cause to believe that the employee used, possessed or was impaired by a drug or alcohol while working. The results of a chemical test shall not be admissible to the evidence

to prove impairment unless the following conditions were met:

(A) There was probable cause to believe that the employee used, had possession of, or was impaired by the drug or alcohol while working;

(B) the test sample was collected at a time contemporaneous with the events establishing probable cause;

(C) the collecting and labeling of the test sample was performed by or under the supervision of a licensed health care professional;

(D) the test was performed by a laboratory approved by the United States department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(E) the test was confirmed by gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample; and

(F) the foundation evidence must establish, beyond a reasonable doubt, that the test results were from the sample taken from the employee.

(3) For purposes of satisfying the probable cause requirement of subsection (d)(2)(A) of this section, the employer shall be deemed to have met their burden of proof on this issue by establishing any of the following circumstances:

(A) The testing was done as a result of an employer mandated drug testing policy, in place in writing prior to the date of accident, requiring any worker to submit to testing for drugs or alcohol if they are involved in an accident which requires medical attention;

(B) the testing was done in the normal course of medical treatment for reasons related to the health and welfare of the injured worker and was not at the direction of the employer; however, the request for GCMS testing for purposes of confirmation, required by subsection (d)(2)(E) of this section, may have been at the employer's request;

(C) the worker, prior to the date and time of the accident, gave written consent to the employer that the worker would voluntarily submit to a chemical test for drugs or alcohol following any accident requiring the worker to obtain medical treatment for the injuries suffered. If after suffering an accident requiring medical treatment, the worker refuses to submit to a chemical test for drugs or alcohol, this refusal shall be considered evidence of impairment, however, there must be evidence that the presumed impairment contributed

accident as required by this section; or

(D) the testing was done as a result of federal or state law or a federal or state rule or regulation having the force and effect of law requiring a post accident testing program and such required program was properly implemented at the time of testing.

(e) Compensation shall not be paid in case of coronary or coronary artery disease or cerebrovascular injury unless it is shown that the exertion of the work necessary to precipitate the disability was more than the employee's usual work in the course of the employee's regular employment.

(f) Except as provided in the workers compensation act, no construction design professional who is retained to perform professional services on a construction project or any employee of a construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injury resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under the workers compensation act, unless responsibility for safety practices is specifically assumed by contract. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications.

(g) It is the intent of the legislature that the workers compensation act shall be liberally construed for the purpose of bringing employers and employees within the provisions of the act to provide the protections of the workers compensation act to both. The provisions of the workers compensation act shall be applied impartially to both employers and employees in cases arising thereunder.

(h) If the employee is receiving retirement benefits under the federal social security act or retirement benefits from any other retirement system, program or plan which is provided by the employer against which the claim is being made, any compensation benefit payments which the employee is eligible to receive under the workers compensation act for such claim shall be reduced by the weekly equivalent amount of the total amount of all such retirement benefits, less any portion of any such retirement benefit, other than retirement benefits under the federal social security act, that is attributable to payments or contributions made by the employee, but in no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment.

Substitute for HOUSE BILL No. 2142

AN ACT concerning workers compensation; relating to date of accident; amending K.S.A. 2004 Supp. 44-508 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2004 Supp. 44-508 is hereby amended to read as follows: 44-508. As used in the workers compensation act:

(a) "Employer" includes: (1) Any person or body of persons, corporate or unincorporate, and the legal representative of a deceased employer or the receiver or trustee of a person, corporation, association or partnership; (2) the state or any department, agency or authority of the state, any city, county, school district or other political subdivision or municipality or public corporation and any instrumentality thereof; and (3) for the purposes of community service work, the entity for which the community service work is being performed and the governmental agency which assigned the community service work, if any, if either such entity or such governmental agency has filed a written statement of election with the director to accept the provisions under the workers compensation act for persons performing community service work and in such case such entity and such governmental agency shall be deemed to be the joint employer of the person performing the community service work and both shall have the rights, liabilities and immunities provided under the workers compensation act for an employer with regard to the community service work, except that the liability for providing benefits shall be imposed only on the party which filed such election with the director, or on both if both parties have filed such election with the director; for purposes of community service work, "governmental agency" shall not include any court or any officer or employee thereof and any case where there is deemed to be a "joint employer" shall not be construed to be a case of dual or multiple employment.

(b) "Workman" or "employee" or "worker" means any person who has entered into the employment of or works under any contract of service or apprenticeship with an employer. Such terms shall include but not be limited to: Executive officers of corporations; professional athletes; persons serving on a volunteer basis as duly authorized law enforcement officers, attendants, as defined in subsection (d) of K.S.A. 65-6112, and amendments thereto, drivers of ambulances as defined in subsection (b) of K.S.A. 65-6112, and

amendments thereto, firefighters, but only to the extent and during such periods as they are so serving in such capacities; persons employed by educational, religious and charitable organizations, but only to the extent and during the periods that they are paid wages by such organizations; persons in the service of the state, or any department, agency or authority of the state, any city, school district, or other political subdivision or municipality or public corporation and any instrumentality thereof, under any contract of service, express or implied, and every official or officer thereof, whether elected or appointed, while performing official duties; persons in the service of the state as volunteer members of the Kansas department of civil air patrol, but only to the extent and during such periods as they are officially engaged in the performance of functions specified in K.S.A. 48-3302 and amendments thereto; volunteers in any employment, if the employer has filed an election to extend coverage to such volunteers; minors, whether such minors are legally or illegally employed; and persons performing community service work, but only to the extent and during such periods as they are performing community service work and if an election has been filed an election to extend coverage to such persons. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to the employee's dependents, to the employee's legal representatives, or, if the employee is a minor or an incapacitated person, to the employee's guardian or conservator. Unless there is a valid election in effect which has been filed as provided in K.S.A. 44-542a, and amendments thereto, such terms shall not include individual employers, limited liability company members, partners or self-employed persons.

(c) (1) "Dependents" means such members of the employee's family as were wholly or in part dependent upon the employee at the time of the accident.

(2) "Members of a family" means only surviving legal spouse and children; or if no surviving legal spouse or children, then parents or grand parents; or if no parents or grandparents, then grandchildren; or if no grandchildren, then brothers and sisters. In the meaning of this section, parents include stepparents, children include stepchildren, grandchildren include stepgrandchildren, brothers and sisters include stepbrothers and stepsisters, and children and parents include that relation by legal adoption. In the meaning of this section, a surviving spouse shall not be regarded as a dependent of a deceased employee or as a member of the family, if the surviving spouse shall have for more than six months willfully or voluntarily deserted or

abandoned the employee prior to the date of the employee's death.

(3) "Wholly dependent child or children" means:

(A) A birth child or adopted child of the employee except such a child whose relationship to the employee has been severed by adoption;

(B) A stepchild of the employee who lives in the employee's house hold;

(C) any other child who is actually dependent in whole or in part on the employee and who is related to the employee by marriage or consanguinity; or

(D) any child as defined in subsections (3)(A), (3)(B) or (3)(C) who is less than 23 years of age and who is not physically or mentally capable of earning wages in any type of substantial and gainful employment or who is a full-time student attending an accredited institution of higher education or vocational education.

(d) "Accident" means an undesigned, sudden and unexpected event or events, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. The elements of an accident, as stated herein, are not to be construed in a strict and literal sense, but in a manner designed to effectuate the purpose of the workers compensation act that the employer bear the expense of accidental injury to a worker caused by the employment. *In cases where the accident occurs as a result of a series of events, repetitive use, cumulative traumas or microtraumas, the date of accident shall be the date the authorized physician takes the employee off work due to the condition or restricts the employee from performing the work which is the cause of the condition. In the event the worker is not taken off work or restricted as above described, then the date of injury shall be the earliest of the following dates:*

(1) *The date upon which the employee gives written notice to the employer of the injury; or*

(2) *the date the condition is diagnosed as work related, provided such fact is communicated in writing to the injured worker. In cases where none of the above criteria are met, then the date of accident shall be determined by the administrative law judge based on all the evidence and circumstances; and in no event shall the date of accident be the date of, or the day before the regular hearing. Nothing in this sub section shall be construed to preclude a worker's right to make a claim for aggravation of injuries under the workers compensation act.*

(e) "Personal injury" and "injury" mean any lesion or change in the

physical structure of the body, causing damage or harm thereto, so that it gives way under the stress of the worker's usual labor. It is not essential that such lesion or change be of such character as to present external or visible signs of its existence. An injury shall not be deemed to have been directly caused by the employment where it is shown that the employee suffers disability as a result of the natural aging process or by the normal activities of day-to-day living.

(f) The words "arising out of and in the course of employment" as used in the workers compensation act shall not be construed to include injuries to the employee occurring while the employee is on the way to assume the duties of employment or after leaving such duties, the proximate cause of which injury is not the employer's negligence. An employee shall not be construed as being on the way to assume the duties of employment or having left such duties at a time when the worker is on the premises of the employer or on the only available route to or from work which is a route involving a special risk or hazard and which is a route not used by the public except in dealings with the employer. An employee shall not be construed as being on the way to assume the duties of employment, if the employee is a provider of emergency services responding to an emergency.

The words, "arising out of and in the course of employment" as used in the workers compensation act shall not be construed to include injuries to employees while engaged in recreational or social events under circumstances where the employee was under no duty to attend and where the injury did not result from the performance of tasks related to the employee's normal job duties or as specifically instructed to be performed by the employer.

(g) "Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record.

(h) "Director" means the director of workers compensation as provided for in K.S.A. 75-5708 and amendments thereto.

(i) "Health care provider" means any person licensed, by the proper licensing authority of this state, another state or the District of Columbia, to practice medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry, audiology or psychology.

(j) "Secretary" means the secretary of labor.

(k) "Construction design professional" means any person who is an

architect, professional engineer, landscape architect or land surveyor who has been issued a license by the state board of technical professions to practice such technical profession in Kansas or any corporation organized to render professional services through the practice of one or more of such technical professions in Kansas under the professional corporation law of Kansas or any corporation issued a certificate of authorization under K.S.A. 74-7036, and amendments thereto, to practice one or more of such technical professions in Kansas.

(l) "Community service work" means:

(1) Public or community service performed as a result of a contract of diversion or of assignment to a community corrections program or conservation camp or suspension of sentence or as a condition of probation or in lieu of a fine imposed by court order; or

(2) public or community service or other work performed as a requirement for receipt of any kind of public assistance in accordance with any program administered by the secretary of social and rehabilitation services.

(m) "Utilization review" means the initial evaluation of appropriateness in terms of both the level and the quality of health care and health services provided a patient, based on accepted standards of the health care profession involved. Such evaluation is accomplished by means of a system which identifies the utilization of health care services above the usual range of utilization for such services, which is based on accepted standards of the health care profession involved, and which refers in instances of possible inappropriate utilization to the director for referral to a peer review committee.

(n) "Peer review" means an evaluation by a peer review committee of the appropriateness, quality and cost of health care and health services provided a patient, which is based on accepted standards of the health care profession involved and which is conducted in conjunction with utilization review.

(o) "Peer review committee" means a committee composed of health care providers licensed to practice the same health care profession as the health care provider who rendered the health care services being reviewed.

(p) "Group-funded self-insurance plan" includes each group-funded workers compensation pool, which is authorized to operate in this state under K.S.A. 44-581 through 44-592, and amendments thereto, each municipal group-funded pool under the Kansas municipal group-funded pool act which is covering liabilities under the workers compensation act, and any other

similar group-funded or pooled plan or arrangement that provides coverage for employer liabilities under the workers compensation act and is authorized by law.

(q) On and after the effective date of this act, “workers compensation board” or “board” means the workers compensation board established under K.S.A. 44-555c and amendments thereto.

(r) “Usual charge” means the amount most commonly charged by health care providers for the same or similar services.

(s) “Customary charge” means the usual rates or range of fees charged by health care providers in a given locale or area.

HOUSE BILL No. 2299

AN ACT concerning workers compensation; relating to membership on the advisory panel; amending K.S.A. 2004 Supp. 44-510i and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2004 Supp. 44-510i is hereby amended to read as follows: 44-510i.

(a) The director shall appoint, subject to the approval of the secretary, a specialist in health services delivery, who shall be referred to as the medical administrator. The medical administrator shall be a person licensed to practice medicine and surgery in this state and shall be in the unclassified service under the Kansas civil service act.

(b) The medical administrator, subject to the direction of the director, shall have the duty of overseeing the providing of health care services to employees in accordance with the provisions of the workers compensation act, including but not limited to:

(1) Preparing, with the assistance of the advisory panel, the fee schedule for health care services as set forth in this section;

(2) developing, with the assistance of the advisory panel, the utilization review program for health care services as set forth in this section;

(3) developing a system for collecting and analyzing data on expenditures for health care services by each type of provider under the workers compensation act; and

(4) carrying out such other duties as may be delegated or directed by the director or secretary.

(c) The director shall prepare and adopt rules and regulations which establish a schedule of maximum fees for medical, surgical, hospital, dental, nursing, vocational rehabilitation or any other treatment or services provided or ordered by health care providers and rendered to employees under the workers compensation act and procedures for appeals and review of disputed charges or services rendered by health care providers under this section;

(1) The schedule of maximum fees shall be reasonable, shall promote health care cost containment and efficiency with respect to the workers compensation health care delivery system, and shall be sufficient to ensure availability of such reasonably necessary treatment, care and attendance to

each injured employee to cure and relieve the employee from the effects of the injury. The schedule shall include provisions and review procedures for exceptional cases involving extraordinary medical procedures or circumstances and shall include costs and charges for medical records and testimony.

(2) In every case, all fees, transportation costs, charges under this section and all costs and charges for medical records and testimony shall be subject to approval by the director and shall be limited to such as are fair, reasonable and necessary. The schedule of maximum fees shall be revised as necessary at least every two years by the director to assure that the schedule is current, reasonable and fair.

(3) Any contract or any billing or charge which any health care provider, vocational rehabilitation service provider, hospital, person or institution enters into with or makes to any patient for services rendered in connection with injuries covered by the workers compensation act or the fee schedule adopted under this section, which is or may be in excess of or not in accordance with such act or fee schedule, is unlawful, void and unenforceable as a debt.

(d) There is hereby created an advisory panel to assist the director in establishing a schedule of maximum fees as required by this section. The panel shall consist of the commissioner of insurance and ~~seven~~ *11* members appointed as follows: One person shall be appointed by the Kansas medical society; one member shall be appointed by the Kansas association of osteopathic medicine; one member shall be appointed by the Kansas hospital association; one member shall be appointed by the Kansas chiropractic association; *one member shall be appointed by the Kansas physical therapy association, one member shall be appointed by the Kansas occupational therapy association* and ~~three~~ *five* members shall be appointed by the secretary. Of the members appointed by the secretary, ~~one~~ *two* shall be ~~a representative~~ *representatives* of employers recommended to the secretary by the Kansas chamber of commerce and industry; ~~one~~ *two* shall be ~~a representative~~ *representatives* of employees recommended to the secretary by the Kansas AFL-CIO; and one shall be a representative of providers of vocational rehabilitation services pursuant to K.S.A. 44-510g and amendments thereto. Each appointed member shall be appointed for a term of office of two years which shall commence on July 1 of the year of appointment. Members of the advisory panel attending meetings of the advisory panel, or attending a subcommittee of the advisory panel authorized by the advisory panel, shall

be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75- 3223 and amendments thereto.

(e) All fees and other charges paid for such treatment, care and attendance, including treatment, care and attendance provided by any health care provider, hospital or other entity providing health care services, shall not exceed the amounts prescribed by the schedule of maximum fees established under this section or the amounts authorized pursuant to the provisions and review procedures prescribed by the schedule for exceptional cases. With the exception of the rules and regulations established for the payment of selected hospital inpatient services under the diagnosis related group prospective payment system, a health care provider, hospital or other entity providing health care services shall be paid either such health care provider, hospital or other entity's usual and customary charge for the treatment, care and attendance or the maximum fees as set forth in the schedule, whichever is less. In reviewing and approving the schedule of maximum fees, the director shall consider the following:

(1) The levels of fees for similar treatment, care and attendance imposed by other health care programs or third-party payors in the locality in which such treatment or services are rendered;

(2) the impact upon cost to employers for providing a level of fees for treatment, care and attendance which will ensure the availability of treatment, care and attendance required for injured employees;

(3) the potential change in workers compensation insurance premiums or costs attributable to the level of treatment, care and attendance provided; and

(4) the financial impact of the schedule of maximum fees upon health care providers and health care facilities and its effect upon their ability to make available to employees such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury.

Kansas Administrative Regulations

51-9-17. Release 1 standards for trading partner profiles; submission of data; first reports of injury.

a) Each insurer, group-funded workers compensation pool, and self-insured employer that chooses to participate in the electronic data interchange (EDI) program shall submit to the director a completed EDI trading partner profile at least 30 days before submitting claim information pursuant to the international association of industrial accident boards and commissions' release 1 standards, as provided in K.S.A. 44-557a and amendments thereto. The EDI trading partner profile shall be completed according to the "Kansas EDI release 1 implementation guide for reporting first (FROI) and subsequent (SROI) reports of injury," as revised on ~~July 14, 2003~~ November 8, 2004 by the Kansas department of ~~human resources~~ labor and hereby adopted by reference. This document shall be referred to as the "Kansas implementation guide" in this regulation.

(b) Each insurer, group-funded workers compensation pool, and self-insured employer shall report to the director within five days any changes to information submitted in the EDI trading partner profile.

(c) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, by electronic data interchange shall be submitted according to the Kansas implementation guide.

(d) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, and the Kansas implementation guide's first report of injury, commonly called "FROI 00," shall be considered the filing of an accident report pursuant to K.S.A. 44-557 and amendments thereto. This information shall not be open to public inspection, except as provided in K.S.A. 44-550b and amendments thereto.

(e) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, and the Kansas implementation guide shall be considered a medical record to the extent that the information refers to an individual worker's identity. No references in the claim information to an individual worker's identity shall be open to public inspection, except as provided in K.S.A. 44-550b and amendments thereto. For purposes of this regulation, the claim number used by an insurance carrier, self-insured employer, or group-funded workers compensation pool to identify an individual worker's claim shall be considered a reference to the individual worker's identity.

(f) ~~This regulation shall be effective on and after January 1, 2004.~~
(Authorized by K.S.A. 2002 Supp. 44-557a, as amended by L. 2003, ch. 22,
~~sec. 1~~, K.S.A. 44-573 ; and K.S.A. 74-717; implementing K.S.A. 2002 2004
Supp. 44-550b, K.S.A. 44-557, K.S.A. 2002 2004 Supp.44-557a, as amended
by L. 2003, Ch. 22, ~~sec.1~~, and K.S.A. 74-716; effective Jan.1, 2004; amended
P- _____.)

INDEX

	<u>STATUTE</u>	<u>REG.</u>	<u>PAGE</u>
Accident:			
Date of, for series of events, repetitive use, cumulative traumas, or microtraumas	44-508(d)		7
Advisory panel:			
Composition and terms	44-510i(d)		12
Aggravation of preexisting condition	44-508(d)(1)		7
Alcohol, drugs, and medications:			
Conditions of testing	44-501(d)(2)(A) through (E); 44-501(d)(3)(A) through (D)		3 3
Burden of proof for test results	44-501(d)(2)(F)&(d)(3)		3
Drunkenness/Intoxication	44-501(d)(2)		1
GCMS confirmatory testing for	44-501(d)(2)&(d)(2)(E)&(d)(3)(B)		1, 3
Probable cause, satisfying	44-501(d)(2)(A)&(d)(3)		3
Specific drugs or substances, test levels	44-501(d)(2)		1
Testing:			
General	44-501(d)(2)&(d)(2)(E)&(d)(3)(B)		1, 3
Mandated	44-501(d)(3)(A)		3
Normal course of medical treatment	44-501(d)(3)(B)		3
Post accident testing program, federal or state mandated	44-501(d)(3)(D)		4
Refusal to submit to	44-501(d)(3)(C)		3
Voluntary submission	44-501(d)(3)(C)		3
Written consent	44-501(d)(3)(C)		3
Date of accident, for series of events, repetitive use, cumulative traumas, or microtraumas	44-508(d)		7
Electronic Data Interchange (EDI):			
Claim information as medical record	51-9-17(e)		15
First report of injury as accident report under K.S.A. 44-557	51-9-17(d)		15
Implementation guide	51-9-17(a) &(c)&(d)		15
Public inspection of records	51-9-17(d) &(e)		15
Revision date	51-9-17(a)		15
Submission (reporting) standard	51-9-17(a)		15
Trading partner profile	51-9-17(a) &(b)		15
Employer:			
Alcohol, drugs, and medications testing	44-501(d)(2)&(3)		1, 3
Burden of proof	44-501(d)(2)(F)&(d)(3)		3
Fee schedule:			
Advisory panel:			
Creation of	44-510i(d)		12
Written consent: alcohol, drugs, and medications testing	44-501(d)(3)(C)		3